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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/808,471	03/25/2004	Akihito Kusano	033498-023	6297

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BURNS DOANE SWECKER & MATHIS L L P
POST OFFICE BOX 1404
ALEXANDRIA, VA 22313-1404

EXAMINER

BURCH, MELODY M

ART UNIT	PAPER NUMBER
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3683

DATE MAILED: 04/11/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/808,471

Applicant(s)

KUSANO, AKIHITO

Examiner

Melody M. Burch

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 25 March 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-12 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-12 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 25 March 2004 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 3/25/04.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

Priority

1. Receipt is acknowledged of papers submitted under 35 U.S.C. 119(a)-(d), which papers have been placed of record in the file.

Drawings

2. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the limitation of a comparison of the brake operating amount with the output hydraulic pressure of the master cylinder as recited at the bottom of claim 1, the comparison of the brake operating amount with the second brake hydraulic pressure as recited at the bottom of claim 2, and the comparison of the first brake hydraulic pressure detected by the first master cylinder pressure detecting means with the second brake hydraulic pressure detected by the second master cylinder pressure detecting means must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for

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consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

3. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(4) because reference character "P1" has been used to designate both a predetermined pressure in figure 5, an upper limit threshold value in the relation between the output hydraulic pressure of the valve 3 and the second brake hydraulic pressure in figure 6, and the upper limit in the relation between the first brake hydraulic pressure and the second brake hydraulic pressure in figure 7. Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

4. In addition to Replacement Sheets containing the corrected drawing figure(s), applicant is required to submit a marked-up copy of each Replacement Sheet including

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annotations indicating the changes made to the previous version. The marked-up copy must be clearly labeled as "Annotated Sheets" and must be presented in the amendment or remarks section that explains the change(s) to the drawings. See 37 CFR 1.121(d)(1). Failure to timely submit the proposed drawing and marked-up copy will result in the abandonment of the application.

Specification

5. The abstract of the disclosure is objected to because ^{it} exceeds 150 words. ^{MB 4/1/05}

Correction is required. See MPEP § 608.01(b).

Claim Rejections - 35 USC § 112

6. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

7. Claims 1-12 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention.

Re: claim 1. The last 6 lines of claim 1 recite that "detecting the bottoming of said master piston by comparing the brake operating amount detected by said brake operating amount detecting means with the output hydraulic pressure of said master cylinder detected by said master cylinder pressure detecting means". The claim language suggests that figure 5 would show a diamond in which the output hydraulic

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pressure of the master cylinder, P_{mc} , is compared with the brake operating amount which, in one instance, is the output hydraulic pressure of the valve 3, P_{reg} .

In paragraph [0027], however, it is described that bottoming is detected "if the output hydraulic pressure of the master cylinder gets out of a predetermined relation". As best understood from the last seven lines of paragraph [0029] and figure 5, the bottoming condition and, thus, the sounding of the alarm means occurs when the output hydraulic pressure P_{mc} of the master cylinder is smaller than a predetermined pressure P_1 .

Clearly, the claim language does not reflect the information presented in the specification and in the drawings.

Re: claim 2. The end of claim 2 recites "detecting the bottoming of said first master piston or said second master piston by comparing the brake operating amount detected by said brake operating amount detecting means with the second brake hydraulic pressure detected by said master cylinder pressure detecting means", however, Applicant shows in figure 6 the second brake hydraulic pressure detected by the master cylinder pressure detecting means being compared to upper and lower limits of a preset relation between the output hydraulic pressure of the valve 3 and the second brake hydraulic pressure.

Re: claim 9. Similarly, in claim 9, the end of the claim recites "detecting the bottoming of said first master piston or said second master piston by comparing the first brake hydraulic pressure detected by said first master cylinder pressure detecting means with the second brake hydraulic pressure detected by said second master

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cylinder pressure detecting means”, but shows in figure 7 the second brake hydraulic pressure detected by the master cylinder pressure detecting means being compared to upper and lower limits of a preset relation between the first brake hydraulic pressure and the second brake hydraulic pressure.

Again, the claim language does not reflect the information presented in the specification and in the drawings.

The remaining claims are indefinite due to their dependency from one of claims 1, 2, and 9.

8. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

9. Claims 1-12 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Re: claims 1, 2, and 9. The phrase “the vehicle” first recited in line 13 of claim 1 lacks proper antecedent basis in the claims.

The remaining claims are indefinite due to their dependency from one of claims 1, 2, and 9.

Allowable Subject Matter

10. Claims 1-12 would be allowable if rewritten or amended to overcome the rejection(s) under 35 U.S.C. 112, 1st paragraph, set forth in this Office action.

Conclusion

11. In order to complete the record, it should be noted that no conflict appears to presently exist between the subject matter defined by the instant claims and the subject matter of the claims of applicant's and/or assignee's copending application no.

10/808376 has been made of record. Accordingly, no double patenting rejection is entered into the instant application. See MPEP 804+ concerning double patenting type of rejections, if necessary. Applicant and/or assignee should maintain this clear line of patentable distinction between the instant claims and the claims of the indicated patent application.

12. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. US Patent 6805415 to Isono et al. teach in figure 5 a bottoming detecting means shown in the flowchart in which bottoming is detected by comparing the output hydraulic pressure of the master cylinder with a predetermined pressure as shown in step S26, for example. US Patent 6460942 to Shimizu et al. include a discussion on the bottoming of a master cylinder. Finally, US Patent 4867509 to Maehara et al. teach the use of detecting bottoming based on the stroke of movement of the brake pedal.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Melody M. Burch whose telephone number is 703-306-4618. The examiner can normally be reached on Monday-Friday (7:30 AM-4:00 PM).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Charles A. Marmor can be reached on 703-308-0830. The fax phone

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number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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April 1, 2005

Melody M. Burch
4/1/05